



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

www.howardcountymd.us

FAX 410-313-3467

TDD 410-313-2323

May 14, 2009

TECHNICAL STAFF REPORT

*Petition Accepted on October 10, 2008
Planning Board Meeting of May 28, 2009
Zoning Board Hearing to be scheduled*

Case No./Petitioners: ZB 1072M -- Dominic and Tracy Totaro

Location: Sixth Election District
Northwest corner of the Howard Street intersection with US 1
Tax Map 47, Grid 12, Parcel 119; 9012 Washington Boulevard
(the "Property")

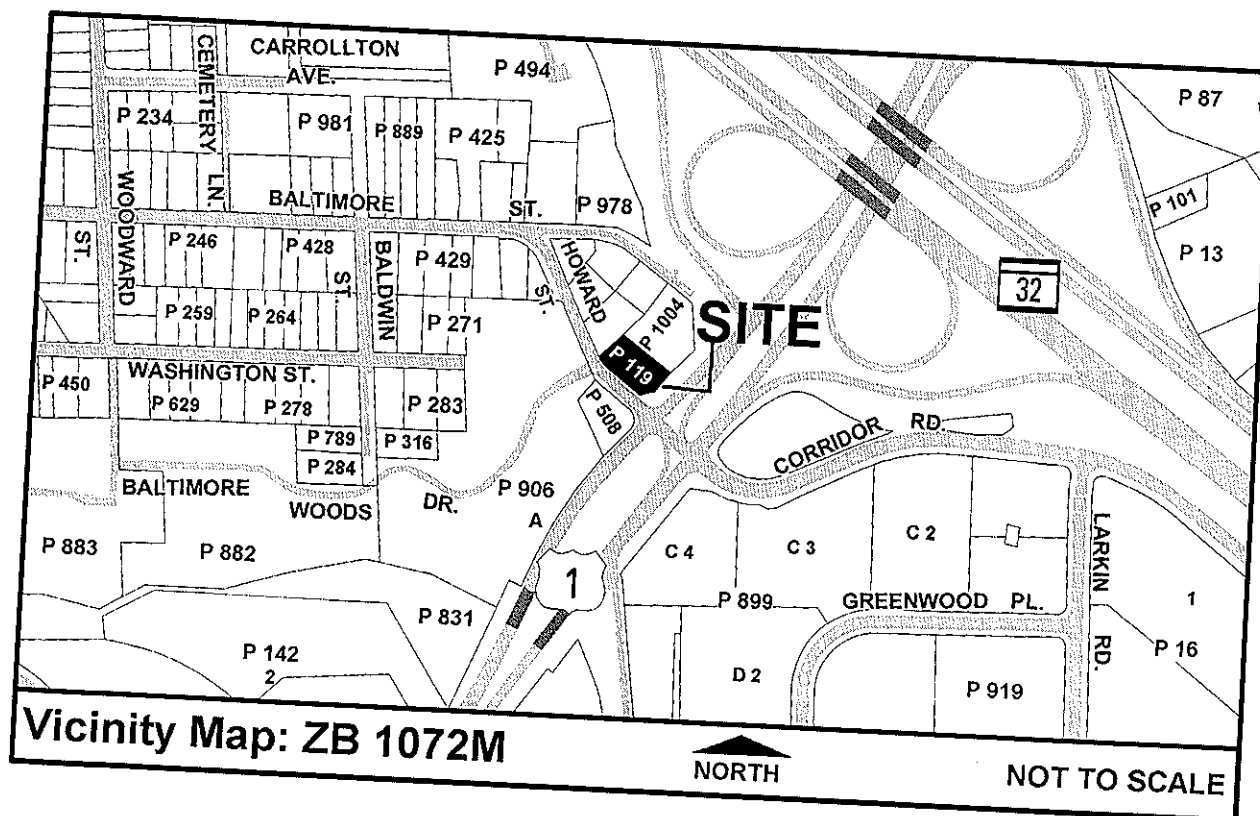
Area of Site: 0.6351 acre (27,664.95 square feet)

Current Zoning: R-SC

Proposed Zoning: B-1, with site plan documentation for a retail building.

Department of Planning and Zoning Recommendation:

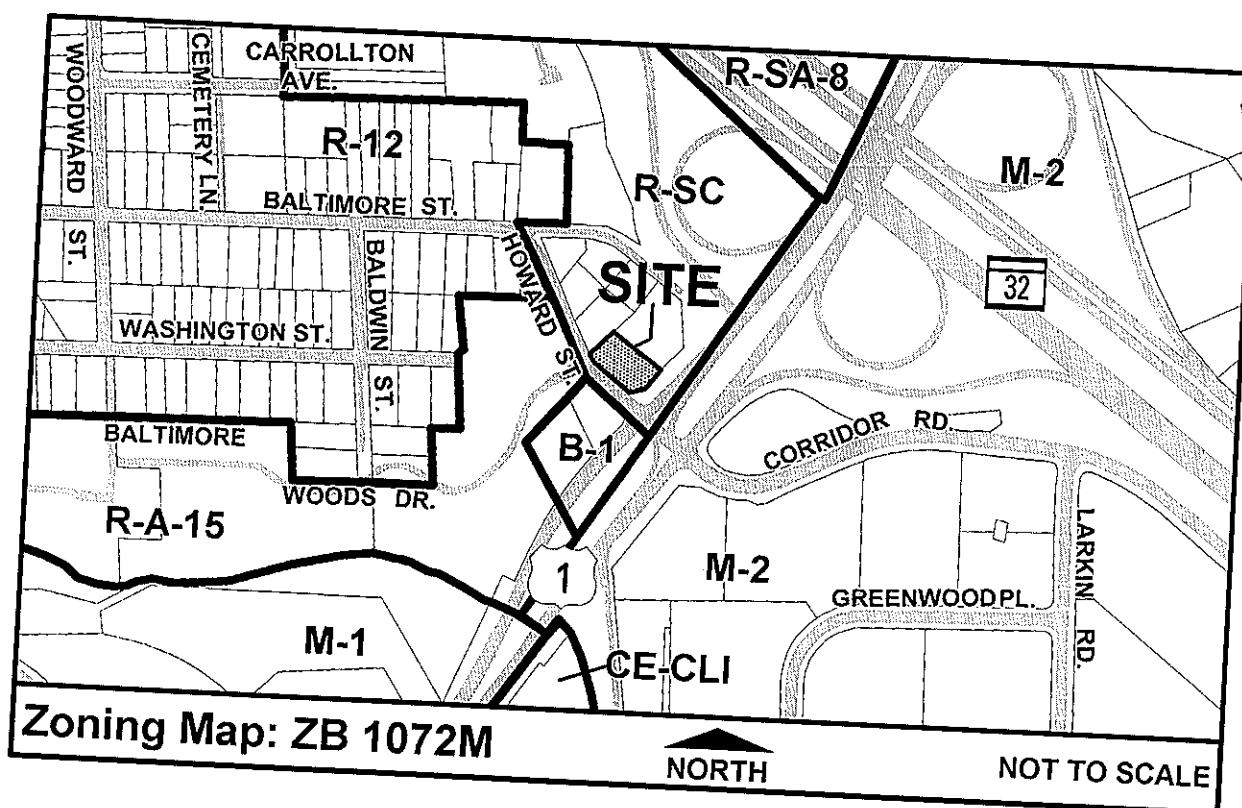
DENIAL



I. DESCRIPTION OF PROPOSAL

- The Petitioners propose a Zoning Map Amendment to rezone the Property from the current R-SC district designation to the B-1 district, with site plan documentation as provided in Section 100.G.2. of the Zoning Regulations.
- As justification for the proposed Zoning Map Amendment, the Petitioners make allegations of both substantial change in the character of the neighborhood since the 2004 Comprehensive Zoning Plan ("Change") and mistake in zoning ("Mistake").
- For the allegation concerning Change, the Petitioners state that since the 2004 Comprehensive Zoning Plan (the "2004 CZP") "...sites fronting on Route 1 in the general area of the Property have primarily developed for commercial and retail uses. The Petitioners are unaware of any sites fronting on Route 1 in the neighborhood surrounding the Property which have been developed for single family residential purposes during this period."

In an attachment to the petition dated September 16, 2008, the neighborhood boundaries as defined by the Petitioners is "...that portion of the Route 1 corridor that is bounded to the north by Route 32; to the east by the CSX/County line; and to the south by the Howard Co./Prince Georges Co. line. The Petitioners maintain that the western boundary of the 'neighborhood' is irregular and is comprised of the existing commercial development on the west side of Route 1 within the boundaries described above."



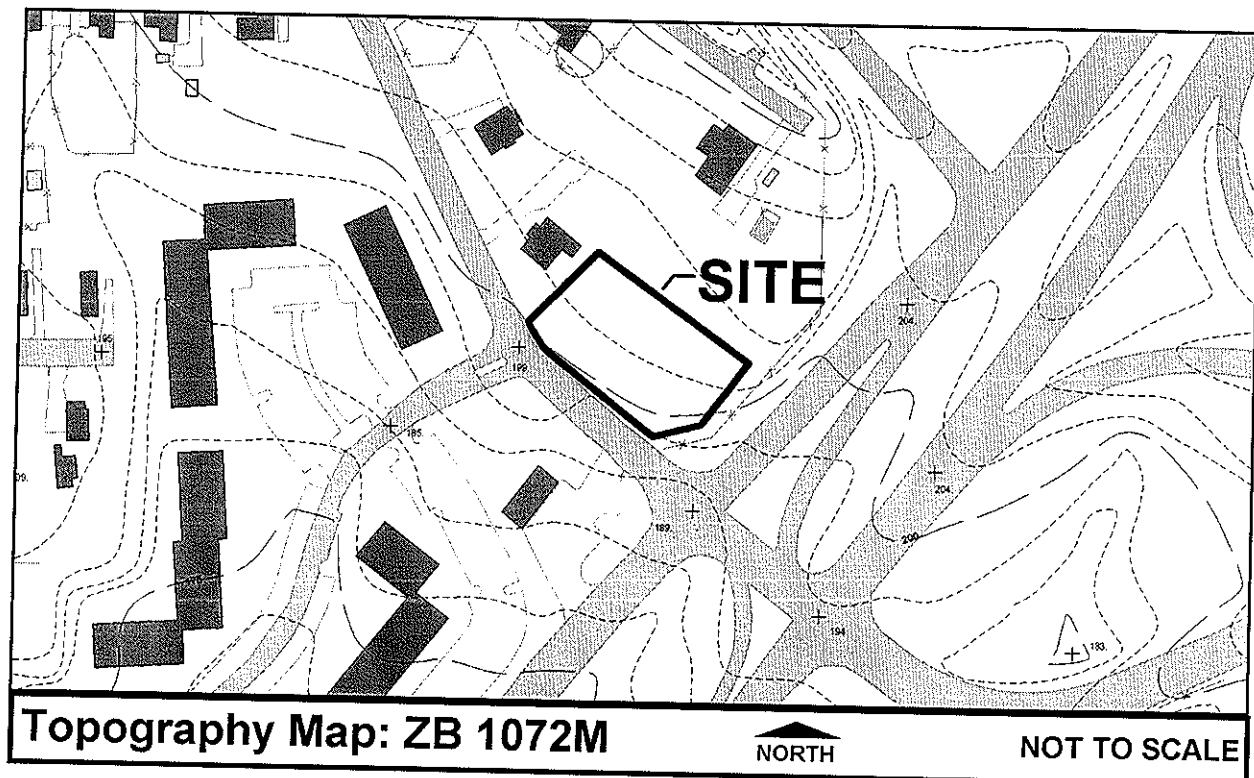
I. DESCRIPTION OF PROPOSAL

- **On the issue of Mistake, the Petitioners assert that the current R-SC zoning of the Property is a mistake because they believe the inappropriateness of this zoning for the Property was not given proper consideration with the 2004 CZP.**

The Petitioners state that the Property "...should have been re-zoned to B-1, consistent with the adjacent [B-1] site described above during the last comprehensive zoning cycle. Residential development of the Property is not consistent with either the General Plan or the Corridor Revitalization initiative."

- **The Petitioners assert that the Property is not usable with the current R-SC zoning because a residential use on the Property would be subject to noise and light from the traffic on the adjoining US 1 and from the convenience store to the southwest across Howard Street.**
- **If the requested Zoning Map Amendment is approved, the site plan proposed by the Petitioners is for a single, one-story retail building with 3,400 square feet of floor area.**

The building would be situated in the southeastern area of the Property, relatively near the intersection of US 1 and Howard Street. This building is oriented to face northwest, but the facade along US 1 is shown on the architectural elevations and plans as having windows, so it would not appear as a "rear" facade.



I. DESCRIPTION OF PROPOSAL

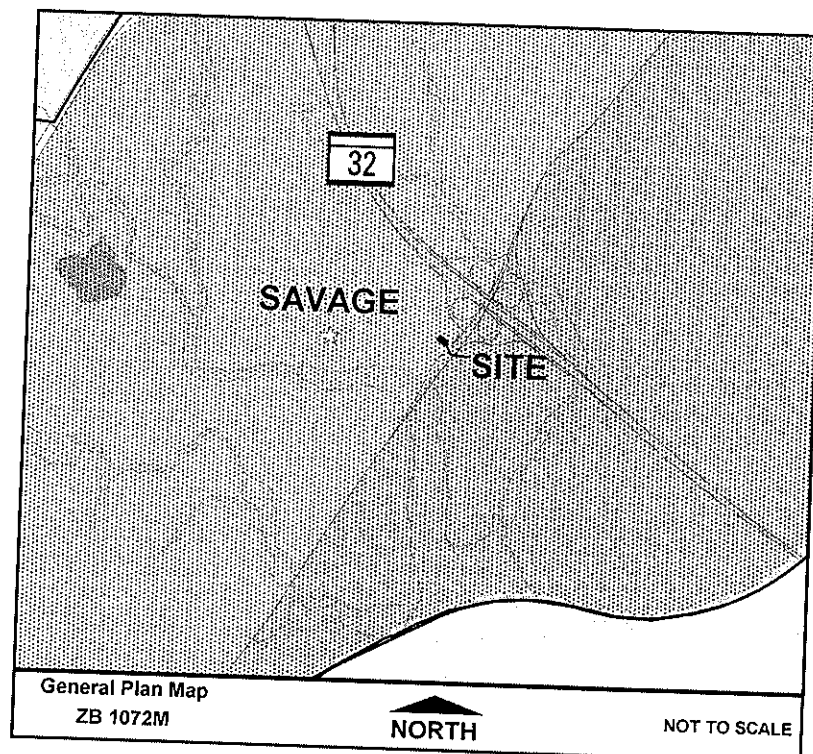
The access to the retail site would be a 24 foot wide driveway starting adjacent to the southwest corner of the Property from Howard Street, as far from US 1 as possible, which would angle to the northeast to a parking lot. There would be 17 parking spaces within this parking lot, and this is the minimum requirement for a retail building of the size proposed. A trash receptacle is shown at the northwest corner of the parking lot. The proposed perimeter landscape buffers are the standard buffers as required by the Landscape Manual.

The principal uses for the site as described by the Petitioners are "...small retail uses..." as permitted in the B-1 District, and a short list of potential businesses are provided, but there is no specific limitation on uses. The hours of operation are stated to be 9:00 a.m. to 9:00 p.m., seven days per week, and the maximum number of employees is stated to be four employees.

II. ZONING HISTORY

A. Subject Property

- In the 1961 Comprehensive Zoning Plan, the Property would have been zoned M-1 because M-1 was placed along US 1, 300 feet from US 1. The 1977 Comprehensive Zoning Plan rezoned the Property to R-SC, and this R-SC zoning has been maintained through the 1985, 1993, and 2004 Comprehensive Zoning Plans.

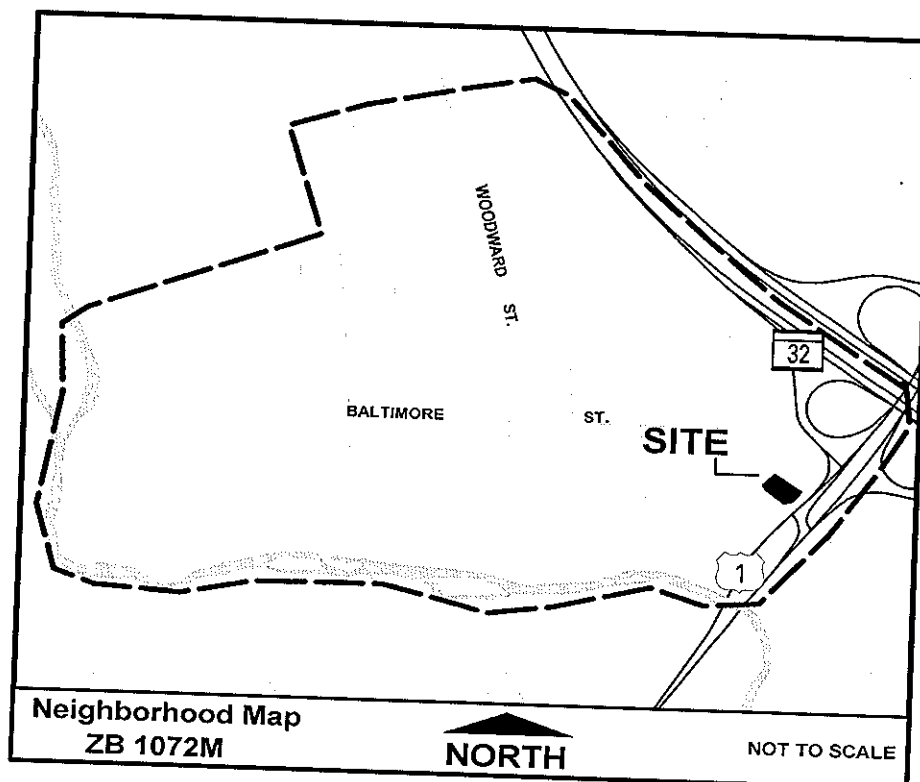


II. ZONING HISTORY

B. Adjacent Properties

- The properties to the northwest, beyond 300 feet from US 1, were zoned R-12 in the 1961 Comprehensive Zoning Plan, were also rezoned to R-SC with the 1977 Comprehensive Zoning Plan, and have remained R-SC to date.
- The adjoining property to the northeast would have been zoned M-1 within 300 feet of US 1 in the 1961 Comprehensive Zoning Plan, were rezoned to R-SC with the 1977 Comprehensive Zoning Plan, and have remained R-SC to date.
- Across the wide US 1 right-of-way to the southeast, the properties were zoned M-1 in the 1961 Comprehensive Zoning Plan, were rezoned to M-2 with the 1977 Comprehensive Zoning Plan, and have remained M-2 to date.
- To the southwest across Howard Street, the property was zoned M-1 in the 1961 Comprehensive Zoning Plan, was rezoned to R-SC with the 1977 Comprehensive Zoning Plan, was rezoned again to B-1 with the 1985 Comprehensive Zoning Plan, and has remained zoned B-1 in the 1993 and 2004 Comprehensive Zoning Plans

This site was a nonconforming gasoline service station for many years, but that use was discontinued, and after a number of years the site was redeveloped slightly for use as a permitted retail business.



III. BACKGROUND INFORMATION

A. Site Description

- **The Property is a slightly irregular, roughly rectangular parcel at the northwest corner of the Howard Street intersection with US 1. This parcel generally parallels Howard Street, and there is an angled front lot line at the corner of the intersection.**

The Property is vacant and unimproved. There is an indication on the 1961 Zoning Maps of a single-family detached residential use on the Property, but the 1963 Aerial Photographs do not show this, so it is inconclusive whether the Property has ever been used for this purpose.

The elevation of most of the Property rises up above the elevation of Howard Street, and although there is a slight rise in elevation from the level of US 1, it is not as pronounced along that frontage. Currently, the Property is predominantly a lawn, with several deciduous trees, most of which are in the northeastern area. There is a line of evergreen trees along the northeastern lot line, but it is unclear whether these are growing on the Property or the adjoining lot.

B. Vicinal Properties

- **The adjoining parcels to the northwest and northeast are also zoned R-SC and are both improved with two-story, frame, single-family detached dwellings. The property to the northwest fronts on Howard Street and has driveway access to that road.**
- **To the east and southeast of the Property is the wide right-of-way for US 1, and beyond this are M-2 properties and uses in the Corridor Industrial Park. The closest M-2 property is estimated to be more than 350 feet from the Property.**
- **Parcel 508 to the southwest of the Property, across Howard Street, is zoned B-1 and is the site of a convenience store. This store faces US 1 with a parking area in front, and the site has access to both Howard Street and southbound US 1.**
- **To the west of the Property, across Howard Street, is Parcel 906 which is zoned R-A-15 and is the site of a multi-building apartments community. There are large mature evergreen trees between these apartments and the convenience store site, and along the Howard Street frontage, and the elevation of this site is below that of Howard Street, so this development is not readily visible from the Property.**

III. BACKGROUND INFORMATION

C. Roads

- The Property can only have access from Howard Street, and not US 1.
- Howard Street has two travel lanes and a right turn lane onto southbound US 1. It has approximately 39 feet of paving within an existing 60 foot wide right-of-way. The posted speed limit is 25 miles per hour.
- The estimated sight distance from the approximate location of the proposed driveway entrance is approximately 230 feet to the southeast to US 1 and approximately 530 feet to the northwest.

Precise sight distance measurements may only be determined through a detailed sight distance analysis, however.

- There is no traffic volume data available for Howard Street.

D. Water and Sewer Service

- The Property is in the Metropolitan District and is within the Existing Service Area according to the Geographic Information System Maps.

A development on the Property would be served by public water and sewer facilities.

E. General Plan

- The Property is designated Residential Areas and Redevelopment Corridors on the Policies Map 2000-2020 of the 2000 General Plan.
- Howard Street is depicted as a Minor Collector on the Transportation Map 2000-2020 of the 2000 General Plan.

F. Subdivision Review Committee

- As required by Section 100.G.2.c. of the Zoning Regulations, the site plan documentation included with this petition was evaluated by the Subdivision Review Committee ("SRC"). Subsequent to this evaluation, on December 4, 2008, the Department of Planning and Zoning certified that the development shown on the proposed site plan has the potential to comply with all technical requirements of the reviewing agencies, without substantial changes to the plan, in subsequent subdivision and site development plan stages of review.

Please refer to the attached memorandum and SRC member comments.

III. BACKGROUND INFORMATION

G. Adequate Public Facilities Ordinance

- The petition is subject to the Adequate Public Facilities Ordinance. A site development plan for the proposed development is subject to the requirement to pass the test for adequate road facilities.

IV. EVALUATIONS AND CONCLUSIONS

A. Evaluation of the Petition Concerning the Change Rule

- The Department of Planning and Zoning disagrees with the neighborhood boundaries as defined by the Petitioners, because these boundaries include all the land to the east to the Howard County/Anne Arundel County boundary, and the land to the south to the Howard County/Prince Georges County boundary, and the western boundary is undefined.

Such a neighborhood definition is too large for a parcel as relatively small as the Property. The Department of Planning and Zoning agrees with the Petitioners' stated northern boundary as being MD 32, but the Property has no direct relation to the industrial land to the east and southeast across US 1, or to the areas beyond the wooded areas along the Middle Patuxent River to the south along US 1 and to the west of Savage.

The proper neighborhood for the Property is Savage, or at least much of it. The neighborhood boundaries as defined by the Department of Planning and Zoning are depicted on the map on Page 5. Even this neighborhood size may be generous because the Property is well separated from Savage Mill and the other areas in the western parts of Savage.

- The zoning within the Savage neighborhood as defined by the Department of Planning and Zoning is largely unchanged from the zoning established in the 1985 Comprehensive Zoning Plan.

The only significant change in the neighborhood since that time was an enlargement of the Savage Mill B-2 area to the west of Savage Mill in the 1993 Comprehensive Zoning Plan.

- Therefore, there has been no substantial change in the character of the neighborhood since the 2004 Comprehensive Zoning Plan was approved.

B. Evaluation of the Petition Concerning the Mistake Rule

- **The explanations given by the Petitioners as justification for this issue, that the inappropriateness of R-SC zoning for the Property was not given proper consideration with the 2004 CZP, and that the Property is not usable for residential uses with the current R-SC zoning, are unsubstantiated opinions which the Department of Planning and Zoning finds to be insufficient to conclude Mistake.**

These points might support justification for rezoning the Property as part of a Comprehensive Zoning Plan process, but are not enough to challenge the assumed correctness of zoning in a piecemeal Zoning Map Amendment.

- **The assertion made that the Property is not usable for a residential use is questionable. In the R-SC District, the side setback from the adjoining parcel to the northwest along Howard Street is only 7.5 feet, and the Property appears to be large enough to establish a good landscaping buffer along US 1.**

Attached dwelling units are permitted in the R-SC District, and with a maximum density of four dwelling units per acre, the size of the Property suggests at least a potential for two dwelling units, although the practicality of that would depend on other development factors. But even one single-family detached dwelling is a realistic use of the Property, and such a dwelling need not be very far from the single-family detached dwelling on the lot to the northwest, which does not appear to be unduly affected by the proximity of US 1.

- **Therefore, the Department of Planning And Zoning finds that there is not enough evidence to support an allegation of Mistake.**

C. Relation to the General Plan

- **The proposal is contrary to the Residential Areas designation for the Property, and this should be given more weight in this case because the Savage neighborhood is primarily a residential neighborhood.**
- **The petition is found to not be in harmony with the Community Conservation and Enhancement Policy 5.9 to "Allow for the appropriate size, location and purpose of commercial centers", and particularly the goal to "Reaffirm the policy of past General Plans to not extend strip commercial development areas along major roads beyond their present limits."**

The existing convenience store on Parcel 508 across Howard Street is a re-use of a former nonconforming gasoline station on a B-1 site. A commercial function on that parcel is a longstanding part of the overall neighborhood character, and that site is well buffered and separated from the nearby residential uses.

PETITIONER: Dominic and Tracy Totaro

C. Relation to the General Plan

Rezoning the Property would establish a new commercial presence at the corner of Howard Street and US 1 that has never had such a use. The proposed use would be relatively close to the adjoining residential uses without much room for significant buffering. Depending on the specific retail use which might be located there, there could be much potential for both an increase in traffic coming off US 1 to access the site, and for pedestrians from the nearby apartment community to cross Howard Street directly to the site, which is not a factor with the existing convenience store.

D. Evaluation of Site Plan Documentation Factors in Section 100.G.2.d.

- **As noted above, there is insufficient evidence to justify a rezoning of the Property on Change or Mistake, so an assessment of the site plan documentation criteria appears to be immaterial. However, in the event the Zoning Board finds justification on the Change or Mistake issues, the Department of Planning and Zoning provides the following evaluations.**

1. As noted above, the proposed retail use would adjoin two R-SC residential lots with existing single-family detached dwellings, and in the case of the adjoining lot to the northwest, the proposed commercial development would be very close, with only a standard landscaping buffer that actually becomes quite narrow near the Howard Street frontage.

Based upon the submitted architectural elevations, the retail building would be of a very typical commercial design with concrete masonry units, large glass windows and doors, and a standing seam metal roof. These design features are not that compatible with the older residential home characteristics of the adjoining areas to the northwest and northeast, although they would be reasonably compatible with the convenience store across Howard Street.

2. There is no feature of the proposed development that indicates the development would not be protective of the environmental integrity of the Property and the adjoining areas in the location and design of site improvements.
3. On the basis of the distance the proposed entrance would be from US 1, and of the relatively low speeds and likely low traffic volume on Howard Street, it is speculated that road access for the proposed development could be safe. As noted above, if a particularly popular business were to be located in the development, this could draw more traffic off of US 1 than would use Howard Street ordinarily. The most problematic situations would be left turn movements entering and exiting the site, but if the traffic volume on Howard Street remains low, these movements would most likely not create unsafe conditions.
4. As noted above in the evaluations on the General Plan, the proposed development is not compatible with the policies and objectives of the Howard County General Plan.

PETITIONER: Dominic and Tracy Totaro

V. RECOMMENDATION ***DENIAL***

For the reasons noted above, the Department of Planning and Zoning recommends that the request to rezone the Property from R-SC to B-1 with site plan documentation for a retail building, be **DENIED**.

 5/14/09
Marsha S. McLaughlin, Director Date

MM/JRL/jrl


NOTE: **The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.**




Howard County

Internal Memorandum

Subject: Planning Board Case No: ZB1072M
Applicant: Dominic & Tracy Totaro
Petition: Pursuant to Section 1010.G.2 of the Zoning Regulation; a Site Plan Zoning Map Amendment (a) redistricting the subject site from RSC: Residential Single Cluster to B-1: Business: Local and (b) approving development of the site strictly in accordance with the Petitioners site plan.

To:  George Beisser, Chief
Division of Public Service and Zoning Administration

From: Cindy Hamilton, Chief 
Division of Land Development

Date: December 4, 2008

08 DEC - 1 PM 2:29

The Division of Land Development has reviewed the above referenced Zoning Petition "Site Plan" to rezone the subject property from RSC Zoning to B-1 Zoning and provides the attached comments for consideration by your Division. Based on the comments generated by the SRC, it appears that the plan has the potential to comply with all technical requirements without substantial changes to the plan. If you have any questions regarding the enclosed comments, please contact Jennifer Wellen or me of this Division.

CH 
attachments

November 6, 2008
Department of Planning and Zoning
Division of Land Development
Comments

RE: **ZB1072M-Dominic and Tracy Totaro**

1. Design Advisory Panel – Site development plans submitted on or after November 3, 2008, a developer shall submit the project for Design Advisory Panel review prior to submission of the site development plan.
2. Landscape Plan Requirements – The future site development plan for this project must address the landscaping requirements in accordance with Section 16.124 of the Howard County Code, the Landscape Manual and the Board of Appeals Decision and Order. A Landscape Island is required in all parking lots as well as a Type D screen to be provided around dumpsters and loading and unloading areas.
3. Site Development Plan Requirements – Please be advised that the proposed project must comply with site development plan requirements of Section 16.155 of the Howard County Subdivision and Land Development Regulations.
4. Storm Water Management Facility Requirements – The proposed building expansion and any other impervious area improvements such as the sidewalk, entranceway and parking area improvements must comply with the SWM requirements administered by the Development Engineering Division.
5. U.S. Route 1 Requirements – The proposed site improvements are subject to compliance with the State Highway Administration requirements with the site development plan submission.
6. Forest Conservation – Provide a general note stating that forest conservation is exempt per Section 16.1202(b)(1)(i) of the Subdivision and Land Development Regulations.
7. Loading and Unloading Facilities – This project will be subject to the off-street loading facility requirements in accordance with Section 133.F of the Zoning Regulations at the SDP plan.



Howard County

Department of Planning and Zoning

Subject: Planning Board Case No: ZB1072M
Applicant: Dominic & Tracy Totaro
Petition: Pursuant to Section 1010.G.2 of the Zoning Regulation; a Site Plan Zoning Map Amendment (a) redistricting the subject site from R-SC: Residential Single Cluster to B-1: Business: Local and (b) approving development of the site strictly in accordance with the Petitioners site plan.

To: Division of Land Development
Department of Planning and Zoning

From: Development Engineering Division
Department of Planning and Zoning

Date: November 6, 2008

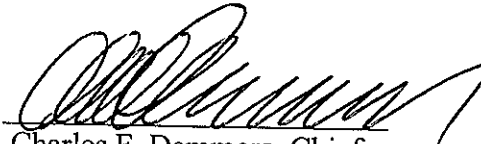
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NOV 14 PM 1:51

The Development Engineering Division has reviewed the above referenced petition and has no objection.

Based on an examination of the petition, we offer the following comments:

1. The request appears to have no adverse engineering impact on the adjacent properties.
2. All improvements must comply with current Howard County design criteria.

If you have any questions concerning this matter please contact me at extension 2420.



Charles F. Dammers, Chief

CFD/pmt

cc: James M. Irvin, Director, Department of Public Works
Philip M. Thompson, Engineer, Development Engineering Division
Ronald G. Lepson, Chief, Bureau of Engineering
Reading File
File

MEMO TO: Depa. .ent of Planning and Zoning

FROM: Department of Inspections, Licenses and Permits

Petition No.: **ZB 1072M** Date Due: **10/31/2008** Date Rec'd: **10/9/2008**

Tax Map No.: **47** Parcel: **119**

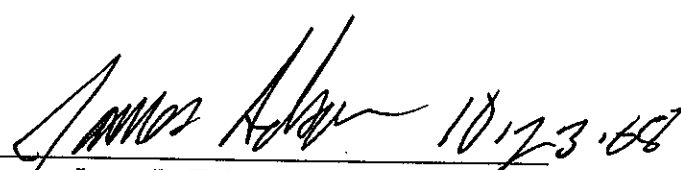
Applicant: **Dominic and Tracy Totaro**

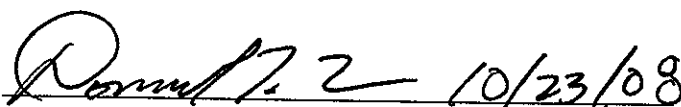
Location/Address: **9012 Route 1; Savage, Maryland**

Nature of Petition: **To request a change in the zoning from RSC to B-1**

This office has **no** objection to the approval of this petition.

08 OCT 23 AM 10:15


James D. Hobson, Plan Review Division
Department of Inspections, Licenses and Permits


Donald Mock, P.E., Chief, Plan Review Division
Department of Inspections, Licenses and Permits



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

John D. Porcari, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation
October 29, 2008

08 OCT 30 AM 6:20

Ms. Cindy Hamilton, Chief
Division of Land Development
3430 Courthouse Drive
Ellicott City, Maryland 21043

RE: Howard County
US 1 (Washington Blvd.)
at Howard Street
Dominic and Tracy Totaro
ZB 1072M

Dear Ms. Hamilton:

Thank you for the opportunity to review and comment on the above referenced Zoning Petition. The State Highway Administration, (SHA) has the following comments regarding this plan:

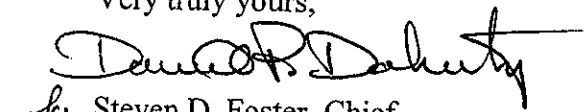
Future US 1 improvements as identified in the Highway Needs Inventory (HNI) and the recently completed US 1 Corridor Improvement Strategy Report would not encroach upon this property.

This section of US 1, just south of the MD 32 interchange, has a very wide median and is already three lanes in the southbound direction - which matches the ultimate number of through lanes established in the HNI and the Strategy Report. Furthermore, the existing right-of-way line as shown on the site plan is approximately 30' from the edge of road - more than ample room to construct a sidewalk, as well as other edge treatments pursuant to the vision outlined in the Strategy, within existing SHA right-of-way.

The site plan also identifies a 10' setback line from the right-of-way line. This is consistent with the minimum setback requirements presented in the Strategy document. We support the proposed access to the site, which is shown as being on Howard Street at the back edge of the property; no access is proposed directly onto US 1.

With the above comments in mind, **SHA has no objections to plan approval.** If you have any questions, please contact Dan Doherty at 410-545-5584 or our toll free number in Maryland only 1-800-876-4742. You may also e-mail him at (ddoherty@sha.state.md.us).

Very truly yours,


for Steven D. Foster, Chief
Engineering Access Permits Division

CC: Mr. Dave Coyne w/attached
Mr. John Concannon w/attached
Mr. Vaughn Lewis

My telephone number/toll-free number is _____

Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410.545.0300 • www.marylandroads.com





Howard County

Internal Memorandum

Subject: Dominic and Tracy Totaro
9012 Washington Boulevard
ZB 1072-M

To: Cindy Hamilton, Chief
Division of Land Development

Through: William Mackey, AICP, Chief *Bill*
Division of Comprehensive and Community Planning

From: Dace Blaumanis, Planner *DB*
Division of Comprehensive and Community Planning

Date: November 19, 2008

Because this property is located in the Route 1 corridor, the Division of Comprehensive and Community Planning (DCCP) reviewed the submitted petition for a site plan zoning map amendment. DCCP believes that this property is appropriate for single-family attached dwelling units, a permitted use in the R-SC zoning for this property, because of the adjacent residential uses to the north and west.

However, if the zoning reclassification request is granted, the site development plan will be subject to the Design Advisory Panel's review and will be required to comply with the Route 1 Manual. The Route 1 Manual describes design requirements and recommendations for properties in the Route 1 corridor. The Manual is available on the County's Web site at <http://www.howardcountymd.gov/DPZ/route1.htm>. Among the Manual's requirements, please note the following requirements:

Chapter 3: Streetscape Design:

1. Because this property has frontage along US 1, streetscape improvements such as sidewalks and street trees will be required. The Maryland State Highway Administration's (SHA) US 1 Corridor Improvement Strategy, posted at <http://www.co.ho.md.us/DPZ/Community/communityplanning.htm#corridor%20studies> recommends standards for US 1 streetscape improvements. These standards have been adopted by both SHA and Howard County and supersede the cross section shown in the Route 1 Manual. Please see the attachment for the recommended streetscape improvements for the main line of US 1, drawing 1.
2. Provide a sidewalk along the Howard Street frontage of the property and connect it to the US 1 sidewalk to meet the goal of a continuous street sidewalk system as stated in the Sidewalks and Crosswalks section (page 24).

3. Install street trees along the property's Howard Street frontage to comply with the goals of the Street Trees section (page 26).

Chapter 4: Site Design:

4. To comply with the On-Site Pedestrian Circulation section (page 41), provide sidewalks that connect from the street to the building entrance.

If you have questions, please call me at 410-313-4324.

Attachment

cc: Land Development (2)
Route 1 Development Proposal Review File